

AMENDMENTS TO THE DRAWINGS:

The attached sheet of drawings includes changes to Figs. 1, 6 and 7. These sheets, which includes Figs. 1, 6 and 7, replaces the original sheets including Figs. 1, 6 and 7. In Figs. 1, 6 and 7, descriptive text has been added to various depicted boxes as the Examiner required.

Attachments: Replacement Sheets (3)
 Annotated Sheets Showing Changes (2)

REMARKS

Claims 1-10 are pending in this application. Claims 1-7, 9 and 10, and Figs. 1, 6 and 7, have been revised. Claims 1 and 5 are independent.

The Objection to the Drawings

The drawings have been objected to on grounds that, in Figs. 1, 6 and 7, various boxes do not provide detailed descriptions of the method steps depicted therein. The Examiner invited Applicant to add text to each box to clarify what that box discloses.

In the interests of expediting prosecution, and without conceding the propriety of this objection, Applicant has prepared and submits herewith replacement drawings containing revised Figs. 1, 6 and 7. No new matter has been added.

Accordingly, favorable reconsideration and withdrawal of this objection are respectfully requested.

The Objection to the Claims

Claim 10 has been objected to as being of improper multiple dependent form. The Examiner is thanked for calling attention to this informality.

Claim 10 has been revised to attend to the point mentioned in the Office Action. Accordingly, favorable reconsideration and withdrawal of this objection are respectfully requested.

The Rejection Under 35 U.S.C. § 101

Claim 10 has been rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicant respectfully traverses this rejection, and submits the following arguments in support thereof.

Claim 10 has been revised to attend to the point noted by the Examiner. Claim 10 now is clearly directed to statutory subject matter as required by 35 U.S.C. § 101.

Accordingly, favorable consideration and withdrawal of this rejection are respectfully requested.

**The Rejection Under
35 U.S.C. § 102**

Claims 1, 5, 9 and 10 have been rejected under 35 U.S.C. § 102(b) as being anticipated by International patent publ. no. WO 02/49343 to Leaning, et al. Applicant respectfully traverses this rejection, and submits the following arguments in support thereof.

Claim 1 describes a server having access to at least one set of files (S_i) generated by slicing an encoded multimedia content in at least one set of slicing positions ($\{T_{i,1}, \dots, T_{i,K}\}$) forming slices that can be decoded independently one from the other, and by enclosing each slice in a file ($F_{i,j}$) thereby generating at least one set of files. The server includes means for receiving an initial request directed to a multimedia content from a client device, means for sending a document to the client device upon reception of the initial request, the document causing the client device to repetitively send a fetching request designating the multimedia content, means for selecting at least one file amongst the set(s) of files, upon reception of the fetching requests from the client device, and means for downloading the selected file(s) to the client device. The fetching request does not identify a specific file to be sent from the server to the client device.

Claim 5 is drawn to a method for downloading an encoded multimedia content to a client device. This method includes the steps of encoding a multimedia content, slicing the encoded multimedia content in at least one set of slicing positions forming at least one set of slices that can be decoded independently one from the other, enclosing each slice in a file thereby generating at least one set of files, receiving an initial request from the client device, the initial request being directed to the multimedia content, and sending a document to the client device upon reception of the initial request, the document causing the client device to repetitively send a fetching request designating the multimedia content. The fetching request does not identify a specific file to be sent from the server to the client device. The method also involves selecting at least one file amongst the set(s) of files, upon reception of the fetching requests from the client device, and downloading the selected file(s) to the client device.

Applicant respectfully traverses this rejection on grounds that Leaning fails to disclose or even suggest that a server controls which file is downloaded. In this regard, it

should be kept in mind that claims 1 and 5 provide that the fetching request does not identify a specific file to be sent from the server to the client device.

Leaning merely teaches that the user's player program, having received the URL for the recording of interest, uses that URL to generate an address for the subfile of interest. Then, during operation, Leaning's player program increments the generated filename to identify additional subfiles to be requested and downloaded (pages 4-5).

Leaning in fact teaches away from at least those aspects of the claimed invention which provide that the fetching request does not identify a specific file to be sent from the server to the client device. As explained at page 5, lines 23-25, Leaning specifically teaches that the player program uses an algorithm to identify the specific sub file being requested. As a result, Leaning requires more work from the player program; in contrast, in the claimed invention, the server determines which sub file is to be sent, reducing the work to be done by the client device.

It also is respectfully submitted that the Office Action places undue weight on the teachings of Leaning, which was identified in the International Search Report for this national-stage application, and merely deemed to define the general state of the art, and not to be of particular relevance. In fact, the Written Opinion of the International Searching Authority for the international stage of this application, cited herewith, specifically held claims 1-10 to possess both novelty and an inventive step over Leaning.

A reference which does not identically disclose all the features of a claimed invention cannot anticipate that invention. Kloster Speedsteel AB v. Crucible Inc., 793 F.2d 1565 (Fed. Cir. 1986). See also In re Paulsen, 30 F.3d 1475 (Fed. Cir. 1994); Constant v. Advanced Micro-Devices Inc., 848 F.2d 1560 (Fed. Cir. 1988); M.P.E.P. § 2131 ("To anticipate a claim, the reference must teach every element of the claim"). Accordingly, this rejection is not well-taken because, as explained above, Leaning fails to identically disclose all of the features of the claimed invention, in particular, that the fetching request does not identify a specific file to be sent from the server to the client device.

In addition, for there to be anticipation under § 102, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the art in the field of the invention. Scripps Clinic & Res. Found. v.

Genentech Inc., 927 F.2d 1565 (Fed. Cir. 1991). As explained above, here there are substantial differences between the claimed invention and Leaning.

The remaining rejected claims, claims 9 and 10, all ultimately depend from and so incorporate by reference all the features of claim 1, including those features just shown to patentably distinguish over Leaning. These claims are therefore allowable at least by virtue of their dependencies.

For all the foregoing reasons, favorable consideration and withdrawal of this rejection are respectfully requested.

**The Rejection Under
35 U.S.C. § 103**

Claims 2-4 and 6-8 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Leaning view of U.S. patent appln. publn. no. 2003/0236864 to Lai. Applicant respectfully traverses this rejection, and submits the following arguments in support thereof.

Claims 1-4 and 6-8 depend from claims 1 and 5, respectively, and so incorporate by reference all the features of claims 1 and 5, including those features just shown to patentably distinguish over Leaning.

Lai only is cited as teaching aspects of the invention found in the dependent claims. Without conceding the propriety of such assertions, Applicant respectfully submits that, with regard to claims 1 and 5, Lai suffers from the same deficiencies as Leaning., meaning that the features of the claimed invention providing that the fetching request does not identify a specific file to be sent from the server to the client device which patentably distinguish over Leaning also distinguish over Lai.

Accordingly, claims 2-4 and 6-8 patentably distinguish over the combination of Leaning and Lai for at least the same reasons that claims 1 and 5 patentably distinguish over Leaning alone. Claims 2-4 and 6-8 are therefore patentable by virtue of their dependencies.

Favorable consideration and withdrawal of this rejection are respectfully requested.

CONCLUSION

Applicant respectfully submits that all outstanding objections and rejections have been addressed and are now either moot or are overcome. Applicant further submits that all claims pending in this application are patentable over the prior art. Accordingly, favorable consideration and prompt allowance of this application are respectfully requested.

No fees are believed to be due in connection with the filing of this paper. If, however, the Commissioner deems any additional fee(s) to be now or hereafter due in connection with this application, authority is given to charge all such fees to Deposit Account No. 50-4019.

In the event that there are any questions, or should additional information be required, please contact Applicant's attorney at the number listed below.

Respectfully submitted,

Date: **January 29, 2010**

By: *David L. Schaeffer*
David L. Schaeffer
Reg. No. 32,716
347-443-1592

Correspondence Address:
Intellectual Property & Licensing
NXP B.V.
1109 McKay Drive; M/S-41SJ
San Jose, CA 95131 USA

CUSTOMER NO. **65913**

APPENDIX